

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-49056-2023

Date of Decision: 20.03.2024

Sukhjeet Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. A.S. Dhaliwal, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 166 dated 21.09.2021 registered under Sections 363, 366-A read with Section 34 IPC at Police Station Kot Bhai, District Sri Muktsar Sahib.

The aforesaid FIR was registered on the basis of statement of the father of the victim, which is reproduced as under:-

“Statement OF Kulvir Singh son of Makhan Singh, resident of Sukhna Ablu aged about 42 years, Mobile No. 85568-23881. Stated that I am resident of above mentioned address and I do the labour work. I have got two daughters and one son. My elder daughter xxxx who is aged about 17 years and she was studying in 10+1 at Doda Senior Secondary School. On 20.09.2021, my daughter went to appear in examination at Senior Secondary School. Doda. When my daughter did

not turn up after the examination time, then we started searching for her, but could not find my daughter xxxx. Now, we have come to know that one Sukhjit Singh son of Charanjit Singh, resident of Wandar Jatana, Police Station Sadar Kotkapura, District Faridkot enticed away my daughter xxxx on the pretext of marriage. Harbans Singh son of Jameet Singh and Sharanjit Kaur wife of Harbans Singh son of Jameet Singh, residents of Sukhna Ablu have got full role in the elopement of my daughter. Till today, myself and my family members were searching for my daughter Manjot Kaur. Today we were coming to you for reporting the matter, you met us. Action be taken action.....”

Learned counsel for the petitioner, *inter alia*, submits that the victim, who was 17-years-old at the time of occurrence, and the petitioner were in a love affair. She went missing on 20.09.2021 from her home and was recovered on 04.03.2022 from the custody of the petitioner. Learned counsel refers to the statement of the victim recorded under Section 164 Cr.P.C. dated 21.09.2021 (Annexure P-2), wherein she had not supported the prosecution case and stated that in fact, she was interested in getting married with the petitioner and she went willingly with him to Muktsar; and boarded train to Hazoor Sahib, and stayed there with the petitioner for 03 days. She further stated therein that because she was minor at that time, therefore, she did not get married and the petitioner had not made any physical relations with her; she went with the petitioner on her own and did not blame anybody. It is submitted that the petitioner has been in custody since 04.03.2022 i.e. since over 02 years. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that

petitioner be released on regular bail.

Pursuant to the advance notice, learned counsel for the State has filed custody certificate dated 18.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 years and 12 days. As per custody certificate, there is no other case against the petitioner. Learned counsel for the State vehemently opposing the prayer for grant of bail to the petitioner, submits that the victim was examined by the trial Court as PW-2 on 06.07.2023, wherein she has alleged that the petitioner had raped her; and forced her not to undergo medical examination; and beaten her up to depose in his favour. It is further submitted that out of total 12 prosecution witnesses only 03 have been examined, so far.

At the stage, learned counsel for the petitioner submits that although, these allegations were made by the victim in her statement recorded by the trial Court on 06.07.2023, however, the offence under Section 376 IPC has not been added in the present FIR till date. Further, learned counsel for the petitioner refers to the *zimni* orders passed by the learned trial Court to submit that for the past 08 months, no witness has been examined by the trial Court.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the petitioner and perusal of the custody certificate reveals that there is no other case against the petitioner; that the material witnesses i.e. the complainant and victim already stand examined; and also the fact that still 09 prosecution witnesses remained to be examined,

therefore, conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Sukhjeet Singh S/o Charanjit Singh is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

20.03.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No